

Court of Appeals, State of Michigan

ORDER

Estate of Vera Watts v Henry Ford Health Systems

Docket No. 267467

LC No. 05-519594-NH

Michael J. Talbot
Presiding Judge

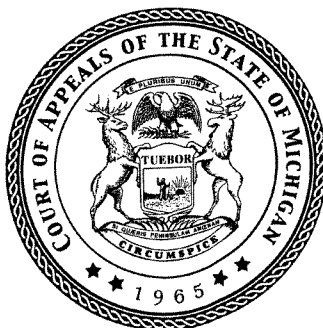
Kirsten Frank Kelly

Christopher M. Murray
Judges

The Court orders that the May 12, 2006, order is VACATED to the extent that it held the application in abeyance.

The Court further orders, pursuant to MCR 7.205(D)(2), that the December 16, 2005, order of the Wayne Circuit Court denying partial summary disposition to defendant hereby is REVERSED with regard to the alleged malpractice in November of 2002 only. A malpractice action "accrues at the time of the act or omission that is the basis for the claim of medical malpractice." MCL 600.5838a. See also *McLean v McElhaney*, 269 Mich App 196; 711 NW2d 775 (2006). Plaintiff did not file a notice of intent within two years of the alleged malpractice of November of 2002 and did not file suit within the two-year limitations period of that alleged malpractice. Further, judicial tolling does not relieve plaintiff from complying with the time constraints in *Waltz v Wyse*, 469 Mich 642; 677 NW2d 813 (2004). *Ward v Siano*, ___ Mich App ___ (Docket No. 265599, issued 11/14/06). The case is REMANDED to the circuit court for further proceedings consistent with this order.

The Court retains no further jurisdiction. This order is to have immediate effect, MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 12 2007

Date

Sandra Schultz Mengel
Chief Clerk